

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

CURTIS WELLS, JR., 99-A-4855,

Plaintiff,

-vs-

02-CV-0633S(F)

C.O. JACOBS,
SGT. CHENEY,
C.O. J. HUPKOWICZ,
R.N. BARBARA FRISBY,
NURSE ADMIN. A. TOUSIGNANT,
and R.N. BARBARA HIGLEY,

ORDER

Defendants.

The Plaintiff served the Defendants with a document demand dated January 30, 2007, and, as a result, the Defendants made available for inspection certain documents demanded therein, which inspection of documents prompted Plaintiff's counsel to make a further demand for documents, by letter dated September 5, 2007, by which Plaintiff's counsel demanded production of a report generated by the Inspector General's Office of the New York State Department of Correctional Services in connection with a Use of Force Report generated at the Attica Correctional Facility in April 2000 (Inspector General Report # 613/00, hereinafter the "Report"), involving defendant J. Hupkowicz, a demand to which Defendants objected on the grounds

that the Report is not relevant to this action and is confidential in nature. A further demand was thereafter made by Plaintiff's counsel for any Inspector General's Report issued in connection with the incident at issue in this case, which is also confidential in nature.

In an effort to resolve this discovery dispute without the need for Court intervention, and with each party reserving all rights regarding the potential use of the Reports as evidence in this action, counsel thereafter stipulated: (1) that the Defendants would produce the Reports to Plaintiff's counsel, with appropriate redaction of confidential information contained in the Report, including a DOCS employee's social security number, home address, and telephone number; and (2) Plaintiff's counsel is prohibited from sharing with the Plaintiff a copy of the Reports or the content of the Reports, unless otherwise authorized by this Court. Such redaction should not be used to prevent Plaintiff from issuing a lawful subpoena to DOCS employees referenced in the Reports. To the extent that additional contact information is needed to issue such subpoenas, Defendants' counsel shall fully cooperate.

UPON the above-referenced stipulation of counsel, it is hereby

ORDERED that Defendants' counsel is to produce the Reports to Plaintiff's counsel, with appropriate redaction of confidential information contained in the Reports, including a DOCS employee's social security number, home address, and telephone number, and Plaintiff's counsel is prohibited from sharing with the Plaintiff a copy of the Reports or the content of the Reports, unless otherwise authorized by this Court;

ORDERED that nothing herein is intended to constitute a waiver of Defendants' existing discovery objections;

ORDERED that nothing herein is intended to constitute a waiver of Plaintiff's right to request additional documents and information.


H. Kenneth Schroeder, Jr.
UNITED STATES MAGISTRATE JUDGE

DATED: March 28, 2008
Buffalo, New York